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➤BOOK:NOTICES.◀

AUS DEM BABYLONISCHEN RECHTSLEBEN (I. & II.) VON J. KOHLER UND F. E. PEISER.*

Through the publication of Strassmaier's *Babylonische Texte*, a fresh impetus has been given to the study of the legal and commercial documents of Babylonia and among those who have contributed to the recent advancement of our knowledge of this division of Assyriology, Dr. Felix E. Peiser occupies a most prominent position. Already in his *Studien zum Babylonischen Rechtswesen*, published in *ZA.*, Vol. III. (1888), he showed his adaptability for the investigation of this difficult subject and following up this important article by a publication with copious comments of the Sargon-stone and of twenty *Keilschriftliche Actenstuecke* (1889), he established his reputation as an authority on the subject. After a short interval, a more elaborate work appeared under the title of *Babylonische Vertraege* (1890), being the texts with transliteration, translation and commentary, of the legal documents in the Berlin Museum, together with additional material obtained at the British Museum. As Oppert's great work on the *Documents Juridiques de l'Assyrie et de la Chaldee* formed the foundation for the interpretation of the legal texts, so this latter publication of Peiser's may be said to mark the beginning of a second era in their interpretation. He now follows up his study of the texts by what we may call a systematic utilization of their contents. The mere translation of the tablets, even if combined with the philological discussion of the words, is of little value unless we also draw the proper conclusions from the data supplied by the documents. This Dr. Peiser endeavors to do and we wish to commend in the first place the excellent plan he follows in securing the coöperation of the distinguished Professor of Comparative Jurisprudence at the Berlin University for the elucidation of the juridical aspects of the literature in question. Already in a previous publication—in the *Babylonische Vertraege*—Dr. Kohler had made some notable contributions to the subject, but he now enters upon it at greater detail. It is manifestly impossible for the Assyriologist also to make himself an authority on questions of law. A division of the labor is necessary or rather, just such a combination as is represented by Messrs. Peiser and Kohler, the one thoroughly versed in the Babylonian literature, the other able to bring his extensive knowledge of ancient and modern jurisprudence to bear upon the forms and methods employed by the ancient Babylonians in their commercial transactions. The result is in full accord with the expectations held out. Two parts of this publication have now appeared and we are safe in saying that they constitute one of the most important publications that has yet appeared upon this branch of Babylonian literature. Divided into a series of chapters, each chapter treating of some distinct subject, the wealth of information offered may be judged by

* Leipzig: Pfeiffer, 1890-91.

an enumeration of the subjects thus treated, viz., the slave trade and general status of slaves, marriage relations, banking business, guarantee, notes of indebtedness, methods of payment, and pledges. So much for the first *Heft*. In the second part, further discussion as to the status of the slave and the legal points involved in marriage settlements are entered upon, together with valuable indications as to the rights of the widow, and the law of divorce. A chapter is set aside for the important question of adoption, followed by one on testaments and inheritance. There follow, division of estates, holding property in common, and transfer of debts. Additional data to the general subject of guarantee and security are offered which modify some of the conclusions reached in the first part. A particularly complete discussion is given of the nice regulations established for sales and revocation of sales under various circumstances. Rent, and labor contracts are touched upon and an exhaustive chapter follows, on partnerships, both on their formation and on their dissolution. The second part closes with an interesting elucidation of the method by which legal suits were conducted by the Babylonians and the various kinds of punishment in the jurisdiction of the court. The plan pursued under each section is to offer illustrations of every statement made by translations of texts relating to the subject whereupon an explanation of the case involved, is given together with evidence bearing upon it chosen from other tablets. The advantage of such a method both for the specialist and the general student of sociology is obvious. The former has the material furnished to him which may be used as the starting-point for entering into further questions of detail, that must naturally be omitted in a work like the one before us; the latter obtains an insight into social conditions prevailing in antiquity that is more valuable and more satisfactory than mere statement of results. The number of texts thus introduced is very large, over one hundred being adduced in full. The translations themselves are admirable and leave little to be desired. As an introduction, therefore, to the study of the legal literature no better method could be recommended than carefully going over these texts, comparing the translations with the original and noting especially the force of the numerous legal terms involved. In the interpretation of the latter, Messrs. Peiser and Kohler are particularly happy. In this respect their work represents a notable advance over previous efforts. So in the first section, the suggestion is made that the rather puzzling phrase which one meets with a number of times in the documents, to take money "from the street," has reference to money that is actually available. The *nuance* which our authors would add of "money taken from business capital," applies to the example adduced but introduces a feature which we venture to say is not essential. In No. 31 (l. 12) of Peiser's *Babylonische Verträge*, I believe that nothing more is intended than would be conveyed by our expression "floating capital," in contradistinction to such as is "locked up" in investments or for other reasons is not available.

Again in the explanation of the cases presented, Messrs. Peiser and Kohler manifest a clearness and accuracy which inspires confidence in the results reached by them. Occasionally, however, they seem to miss the point. Thus in the explanation of Nbk 346 (p. 5) from which our authors would conclude that a "fugitive slave" might be sold. The supposition does not seem plausible and the arguments advanced despite their ingenuity, are not convincing. We believe that a better explanation of the tablet in question will be obtained if we interpret the

phrase (ll. 9-10) put *ḥiliku u mitutu ša Barikil...našû* not as a guarantee that the slave "is a fugitive and that he is not dead," but as a guarantee that at the time of the sale, he is neither incapacitated nor dead. The guarantee seems to be nothing more than a formula precisely like the very common one which also appears in this tablet (l. 6) of the guarantee before the *siḫi u pakiranu u aradšarrutu u mar banûtu* officials. Just as this formula simply means that the official records of those departments of the Babylonian civity are free from any objections to the sale on the ground of rebellious conduct on the part of the slave, or of prior claims against him or claim of adoption (which removes him from the status of serfdom) so the assurance is also given that the slave is in good condition and alive. Such an assurance would be necessary in case the transaction was made, as must often have happened, in the absence of the slave. The meaning here proposed for *ḥalâku* "injured," i. e. incapacitated from work seems preferable to "flight," in view of V R. 25, 16-17 where the ordinary stem for "fleeing" *aâtû* is used, whereas *ḥalâku* immediately follows *mîtu*, the three terms, death, injury and flight thus forming a descending scale. There are other points in which we might differ from Messrs. Peiser and Kohler, e. g. on p. 2 of the first part we would suggest that the four šekels additional to the tax of one-sixth are part payment—perhaps interest—on the note against the slave held by the master, and on p. 9 (l. 2) we would answer the query whether the husband of *Belti-iṭirat* was dead at the time of the issue of the document discussed, in the negative, and suggest that the dowry at the time of marriage was paid into the hands of the father of the groom to form part, as it seems, of the family estate—a custom for which Nbn 243 offers confirmatory evidence; and more the like. But the value of the work is in no way impaired by such differences of opinion that must naturally exist and continue to exist for some time in a comparatively new field of investigation. Messrs. Peiser and Kohler would be the last to claim that they have satisfactorily solved all the problems touched upon in their work. When, as in the case of "security" regulations, they enter upon an exhaustive investigation, they leave little for their successors to do, but they very properly touch in a cursory manner upon matters for which the material is as yet insufficient, satisfied with having suggested problems and pointed out the way in which they are to be treated and solved. It is method above all that is at present needed in Assyriological research and especially in the case of the legal documents where hasty guess-work and crude discussions with insufficient knowledge of legal methods and forms, on the part of some scholars, have done a good deal of mischief. There will be less excuse than ever for blundering, after the clear exposition that our authors have given of the way in which the "contracts" must be studied. We understand that two more numbers of the *Studien* may be expected. We look forward to the continuation of the work with great interest, confident that the high standard characterizing what has already appeared will be maintained. In conclusion we would like to offer the suggestion that upon the completion of the work, Dr. Peiser will furnish substantial indices such as he with commendable consistency has supplied to his previous publications. A book without an index is like a pitcher without a handle—hard to manage. Among these indices should be one in which under appropriate headings, such as slave, marriage, house, pledge, rent, notes, and the like, (arranged alphabetically,) the data furnished by the tablets

discussed should be briefly indicated with references of course to the tablets, and to the passage or passages in the publication itself where the subject is touched upon. The work is not intended merely for the specialist and we recommend it most heartily to the attention of students of antiquity in general.

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May, 1892.

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SOME RECENT GERMAN WORKS.

It is a singular coincidence that just as the English theological world has been favored with such superior works as Driver's "Introduction to the Literature of the Old Testament," and a beginning of the Gesenius-Robinson Hebrew Lexicon as revised by Brown, Driver and Briggs, two German works have appeared which practically cover the same ground, and do this from essentially the same standpoint and on the basis of the same scientific methods and principles. These works are first the *Hebraisches Woerterbuch zum Alten Testament*, by Dr. Carl Siegfried, of Jena, and Dr. Bernhard Stade, of Giessen (Leipzig: Verlag von Veit and Company. 1892-93. Size $9\frac{1}{4} \times 7$ inches, pp. 978 in two parts. Price of both parts 15 marks), and secondly, the *Einleitung in das Alte Testament*, by Dr. C. H. Cornill, Professor in Königsberg (Freiburg: Mohr. 1891. Size 9×6 inches, pp. xii, 325. Price 7.50 mark). Of this work the second edition has made its appearance. In both cases the palm, as students' books, can be given, we believe justly, to the English works; as these, notwithstanding the fact that the German works contain some excellencies not found in the English, are by their matter and manner best adapted for independent work and research on the part of the investigator. This is especially true of the lexicon. While the German lexicons may possibly claim superiority by the fulness with which some shades of meanings are developed and separated; yet the entire absence of etymologies and comparisons with the other Semitic tongues; the comparative meagerness of the references to the Old Testament usages, in which respect the English work falls little short of a complete concordance, placing almost the entire working material at the disposal of the students; the fact that it is not arranged on the basis of the stem system, as the English work is; the further fact that the English will probably bring one-fourth more material, and in general makes the processes of evolving the meanings at least practically if not *ex professo* a matter of great prominence, while the German really gives only the results without the processes, —all these characteristics show that both from a strictly scientific standpoint, as also when we consider the practical needs of the conscientious student who does not blindly swear *in verba magistri* or heed the *ipse dixit* of even an acknowledged authority, but aims to discover the why and wherefore of important results, the English is a work of greater value for the independent Old Testament student than the German, although the latter will at times aid where the former fails.

The Siegfried-Stade work aims at defining the Old Testament words as these appear in the light of modern literary and historical criticism. It has been the constant complaint that the old Gesenius lexicon has in recent decades fallen into the hands of its enemies. It is true that Gesenius was a rationalist, and in so far